

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

YELENA ANTIPOVA,

Plaintiff,

-against-

CAREMOUNT MEDICAL P.C., et al.,

Defendants.

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21-CV-7453 (JPC) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

Defendants have advised the Court of the death of *pro se* plaintiff Yelena Antipova in January of this year. (Dkt. 107.) Pursuant to Rule 25(a) of the Federal Rules of Civil Procedure, the Court may order substitution of the proper party. "A motion for substitution may be made by any party or by the decedent's successor or representative." Fed. R. Civ. P. 25(a)(1). However, if the motion is not made within 90 days after service of a "statement noting the death," such as defendants' letter, "the action by or against the decedent must be dismissed." *Id.*

In light of plaintiff's death, all pending pretrial deadlines are VACATED. Defendants are hereby directed to serve a copy of this Order, by first-class mail, addressed to "Yelena Antipova or her executor or representative," at her last-known residential address, and file proof of such service upon the docket. Thereafter, if no motion for substitution is made within 90 days, the Court will entertain a motion to dismiss this action. *See Keating v. Leviton Mfg. Co.*, 2009 WL 234654, at *2 (E.D.N.Y. Jan. 30, 2009) ("Courts have repeatedly found that dismissal of an action is warranted when no motion for substitution is made more than ninety days after a suggestion of death is filed.").

Dated: New York, New York
February 14, 2024

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge